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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:

~~DOCKET FILE COPY ORIGINAL~~

THE TENNIS CHANNEL, INC.

)
) MB Docket
) No. 10-204

v.

COMCAST CABLE COMMUNICATIONS,) File No.

LLC) CSR-8285-P

Complaint Alleging Program)

Carriage Discrimination)

Friday,
April 29, 2011
Volume 6
Hearing Room TW-A363
445 12th Street, S.W.

Washington, D.C.

The above-entitled matter came on for
hearing, pursuant to notice, at 9:30 a.m.

BEFORE:

THE HONORABLE JUDGE RICHARD L. SIPPEL
Chief Administrative Law Judge

APPEARANCES

On Behalf of Comcast Cable
Communications, LLC

MICHAEL P. CARROLL, ESQ
ANDREW N. DeLANEY, ESQ
EDWARD N. MOSS, ESQ
DAVID B. TOSCANO, ESQ
of: Davis Polk & Wardwell, LLP
450 Lexington Avenue
New York, New York 10017
(212) 450-4000

DAVID H. SOLOMON, ESQ
J. WADE LINDSAY, ESQ
of: Wilkinson, Barker and Knauer, LLP
2300 N Street, N.W.
Suite 700
Washington, D.C. 20037
(202) 783-4141

On Behalf of The Tennis Channel, Inc.

C. WILLIAM PHILLIPS, ESQ
PAUL SCHMIDT, ESQ
NEEMA TRIVEDI, ESQ
of: Covington & Burling, LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018-1405

(212) 841-1081

LEAH E. POGORILER, ESQ
ROBERT SHERMAN, ESQ
STEPHEN A. WEISWASSER, ESQ
of: Covington & Burling, LLP
1201 Pennsylvania Avenue, N.W.

Washington, D.C. 20004-2401
(202) 662-5115

On Behalf of the Federal Communications
Commission

WILLIAM H. KNOWLES-KELLETT, ESQ

GARY OSHINSKY, ESQ

Investigations and Hearings Division

Enforcement Bureau

Federal Communications Commission

1270 Fairfield Road

Gettysburg, Pennsylvania 17325

(717) 338-2505

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P R O C E E D I N G S

9:32 a.m.

JUDGE SIPPEL: Good morning. This is our fifth day of testimonial hearings and we're going to have four witnesses today or make an effort to hear four witnesses today anyway. We'll have some percentage of four. And we're starting with Mr. Bond who had testified earlier in a case before. So I will ask Mr. Carroll to take it from there.

MR. CARROLL: Your Honor, you probably want to swear Mr. Bond to this proceeding.

JUDGE SIPPEL: Did I release you from the last one?

(Laughter.)

Please raise your right hand.

WHEREUPON,

MADISON BOND

WAS CALLED FOR EXAMINATION BY COUNSEL ON
BEHALF OF COMCAST CABLE COMMUNICATIONS, LLC
AND, HAVING FIRST BEEN DULY SWORN, WAS

1 EXAMINED AND TESTIFIED AS FOLLOWS:

2 MR. CARROLL: Your Honor, may I
3 start up?

4 JUDGE SIPPEL: Please do.

5 MR. CARROLL: Thank you, Your
6 Honor.

7 DIRECT EXAMINATION

8 BY MR. CARROLL:

9 Q Good morning. Your name for the
10 record, please?

11 A Good morning. Madison Bond.

12 Q Mr. Bond, you've been here and
13 testified in front of Judge Sippel in other
14 proceedings, correct?

15 A Yes.

16 MR. CARROLL: And Your Honor, I
17 won't dwell too much on background since we've
18 done this before.

19 BY MR. CARROLL:

20 Q But very briefly, could you just
21 give us your background in terms of your
22 employment history related to the cable

1 industry?

2 A I joined the cable industry in
3 1992. I initially went to work for a company
4 called TCI. That company was acquired by AT&T
5 Broadband. I worked for a few years for AT&T
6 Broadband. In 2001, I left AT&T Broadband and
7 joined the Yes Network which was a regional
8 sports network in New York. I worked there
9 through the end of 2002 and then I joined
10 Comcast. My job at Comcast was Executive Vice
11 President, Content Acquisition. I held that
12 job until the end of last year and then joined
13 NBC.

14 JUDGE SIPPEL: I'm going to ask
15 you just to do me a favor. Would you go down
16 that list again? You started at TCI. What
17 year was that?

18 THE WITNESS: That was in 1992.

19 JUDGE SIPPEL: And what was your
20 position when you left TCI?

21 THE WITNESS: When I left TCI I
22 was the Executive Vice President of

1 Programming.

2 JUDGE SIPPEL: And from there you
3 went to -- what was the next company?

4 THE WITNESS: I actually didn't
5 leave TCI. It was acquired by AT&T Broadband.

6 JUDGE SIPPEL: Okay.

7 THE WITNESS: When it was
8 acquired, I was the Executive Vice President
9 of Programming. And then I held the same
10 position at AT&T Broadband.

11 JUDGE SIPPEL: I gotcha. Same.
12 And that was an acquisition.

13 THE WITNESS: Yes.

14 JUDGE SIPPEL: What was your next
15 event, the next corporate event?

16 THE WITNESS: Then I left AT&T
17 Broadband and I went to work for the Yes
18 Network which --

19 JUDGE SIPPEL: Yes?

20 THE WITNESS: Yes, Y-E-S.

21 JUDGE SIPPEL: Is that the
22 Yankees?

1 THE WITNESS: That's the Yankees
2 network, the regional sports network in New
3 York that carries the Yankees and the Mets.

4 JUDGE SIPPEL: What year was that?

5 THE WITNESS: That was in 2001.

6 JUDGE SIPPEL: 2001. And what was
7 your position there at the time that you left?
8 What position did you achieve there?

9 THE WITNESS: I was the Executive
10 Vice President of Distribution.

11 JUDGE SIPPEL: Okay. So you were
12 working for Mr. Steinbrenner?

13 THE WITNESS: Indirectly.

14 JUDGE SIPPEL: You don't look any
15 worse the wear for it.

16 (Laughter.)

17 And then after Yes Network?

18 THE WITNESS: Then I went to work
19 for Comcast. Comcast hired me from Yes
20 Network. And that was at the end of 2002.

21 JUDGE SIPPEL: And the position
22 there you said was as -- go ahead, give it to

1 me.

2 THE WITNESS: Executive Vice
3 President of Content Acquisition.

4 JUDGE SIPPEL: I'm going to ask
5 you. Can you explain the difference between
6 Executive Vice President for Distribution and
7 -- well, Vice President of Distribution and
8 Vice President for Content Acquisition? I'm
9 going to ask you to explain it.

10 THE WITNESS: When I was at TCI, I
11 was the head -- initially, I started out, I
12 worked as a lawyer for TCI and over time I got
13 promoted. And eventually, I was running the
14 programming group which acquired all the
15 content. I did all the programming deals with
16 TCI. So I was essentially the chief buyer for
17 TCI.

18 And then when it was acquired by -

19 -

20 JUDGE SIPPEL: Chief buyer of
21 what, programming?

22 THE WITNESS: Programming, yes,

1 sir.

2 JUDGE SIPPEL: Okay.

3 THE WITNESS: And then when I
4 joined AT&T Broadband, through that
5 acquisition, I held the same position. So my
6 position did not change.

7 When I went to work for the Yes
8 Network, I essentially went over to the other
9 side of the table. Now I was the seller of
10 the Yes Network. I was in charge of getting
11 the Yes Network distributed on cable systems.
12 That network was a start-up network. It had
13 not existed previously, so my job in that case
14 was to get the Yes Network distributed
15 initially on cable systems in the New York
16 area. So I held that job for a little over a
17 year. And then Comcast asked me to come over
18 and join Comcast, essentially as the chief
19 buyer for Comcast.

20 JUDGE SIPPEL: So you were back to
21 where you had been in a sense?

22 THE WITNESS: Exactly.

1 JUDGE SIPPEL: Okay. Thank you
2 for making that explanation.

3 THE WITNESS: You're welcome.

4 JUDGE SIPPEL: Okay. That's fine.
5 That explanation is fine. And now your
6 position is -- you were, well, 2002 until when
7 -- I guess to this year, you were in that
8 position?

9 THE WITNESS: Yes, sir.

10 JUDGE SIPPEL: And then what
11 happened this year?

12 THE WITNESS: I went to work for
13 NBC and that's where I'm working right now.

14 JUDGE SIPPEL: What's your
15 position there?

16 THE WITNESS: I'm the Executive
17 Vice President of Distribution. So
18 essentially I'm now back on the other side of
19 the table. Now I'm selling. My
20 responsibilities at NBC, I'm responsible for
21 distributing all of the NBC cable channels,
22 broadcast stations, other content.

1 JUDGE SIPPEL: So you'd be
2 soliciting sales of such content certainly to
3 Comcast and others similarly situated. Is
4 that a fair way to say it?

5 THE WITNESS: Yes, sir.

6 JUDGE SIPPEL: All right. Now for
7 now, that's all I wanted. Anything more?

8 MR. CARROLL: On background?

9 JUDGE SIPPEL: Yes.

10 MR. CARROLL: Probably not on
11 background.

12 JUDGE SIPPEL: Whatever you want.

13 MR. CARROLL: Just let me know --

14 JUDGE SIPPEL: Go right ahead.
15 Keep going.

16 BY MR. CARROLL:

17 Q And so who took over in your shoes
18 when you moved over to NBC this year?

19 A Greg Rigdon.

20 Q And we've heard from Mr. Rigdon.
21 And over at NBC are you still working in
22 Philadelphia or have you had to move?

1 A No, I'm in New York now.

2 Q So are you in the 30 Rock
3 building?

4 A Yes.

5 JUDGE SIPPEL: That means
6 Rockefeller Plaza?

7 MR. CARROLL: Rockefeller Plaza,
8 yes.

9 BY MR. CARROLL:

10 Q And are you now cheering for the
11 New York teams, sir, rather than the
12 Philadelphia teams?

13 A I always was.

14 JUDGE SIPPEL: That's too bad.

15 (Laughter.)

16 JUDGE SIPPEL: They got beat last
17 night you know.

18 THE WITNESS: I didn't see.

19 JUDGE SIPPEL: The Mets side.

20 BY MR. CARROLL:

21 Q Finally --

22 JUDGE SIPPEL: Well, thank you.

1 (Laughter.)

2 JUDGE SIPPEL: A win is a win, you
3 know.

4 (Laughter.)

5 BY MR. CARROLL:

6 Q Now I want to focus on, I take it,
7 a bit of a time line approach here, Mr. Bond.
8 I want to walk through some periods of time
9 and let me start in the mid-'90s period.
10 During the mid-'90s, that would have been when
11 you were at TCI, correct?

12 A Yes, sir.

13 Q And you would have been on the buy
14 side or the sell side for distribution at TCI?

15 A The buy side.

16 Q On the buy side. So you would
17 have been for TCI as a cable company in the
18 market then buying programming, buying channel
19 programming for distribution?

20 A Yes, on the TCI cable systems.

21 Q Now I want to focus on sports
22 tiers. Did the concept of a sports tier exist

1 back then in the mid-'90s?

2 JUDGE SIPPEL: By the way, what
3 does TCI stand for?

4 THE WITNESS: Telecommunications,
5 Inc.

6 JUDGE SIPPEL: Thank you.

7 THE WITNESS: You're welcome.

8 BY MR. CARROLL:

9 Q In the mid-'90s, did the sports
10 tier exist in the industry yet?

11 A No. DirecTV had created something
12 of a proto-sports tier using some RSNs, but
13 other than that, it really didn't exist in the
14 industry.

15 JUDGE SIPPEL: You have to say
16 what RSN is.

17 THE WITNESS: Regional Sports
18 Network.

19 JUDGE SIPPEL: Thank you.

20 BY MR. CARROLL:

21 Q When did the sports tier first
22 come into existence?

1 A Mid-2000.

2 Q Mid-2000. Was there any reason
3 why it didn't exist earlier than that back in
4 the 1990s? Had it just not been invented or
5 was there some other reason it didn't work
6 back then?

7 A Well, there were probably a number
8 of reasons, chief among them was probably
9 technical. At most, cable systems, the
10 ability to create a tier and sell a tier
11 separately of that kind was relatively
12 difficult to do. Digital was really in its
13 infancy at that point. And the systems just
14 really weren't set up to sell a tier. There
15 wasn't a ton of channel capacity at that time
16 to create a tier to have a robust sports tier
17 offering as well.

18 Q What were the various distribution
19 options that existed in the industry back in
20 the 1990s? That is, if I had a channel and I
21 wanted to get it distributed, what types of
22 distribution choices were there back then?

1 A There were basically three in the
2 mid-'90s with respect to cable systems. There
3 was what was known as the broadcast basic tier
4 . That was a tier of service that by law was
5 required to go to every customer and in most
6 cases was comprised of the broadcast channels,
7 maybe a few other channels, some guide
8 channels or weather channels potentially.

9 The next -- so that tier was about
10 100 percent penetrated. The next tier was
11 what was referred to as the basic or expanded
12 basic tier. And that was really the tier
13 where you had the core cable offerings.
14 That's what most people would have thought of
15 as basic. That's where ESPN, USA Network,
16 Discovery Network, A&E, networks such as that
17 were.

18 In the mid-'90s, it began to be
19 developed digital tiers, digital technology,
20 and digital distribution technologies really
21 came into being in the very early '90s with
22 the launch of satellite and then cable systems

1 started to launch digital in the mid-'90s.

2 And so at that point in time you saw the
3 development of what became known as the
4 digital basic level of service. And some
5 networks created packages of services for
6 digital which were distributed by cable
7 operators on this digital basic level of
8 service.

9 Q And what was the market like back
10 in the mid-'90s in terms of new channels?
11 Were there a lot of new channels being created
12 and distributed or not? Could you describe
13 that a little bit?

14 A There were a number of new
15 channels that were created in the mid-'90s.
16 There were a number of channels created in the
17 mid-'90s that ended up achieving ubiquitous
18 distribution. There were other channels that
19 were launched in the mid-'90s that achieved
20 very significant digital basic penetration
21 across the universe. So there were many
22 channels launched in the '90s.

1 Q Did ESPN already exist by the mid-
2 '90s?

3 A Yes.

4 Q How long? Do you remember when it
5 was started?

6 A ESPN launched in 1980.

7 Q 1980. Do you remember any of the
8 new channels that came along in the mid-'90s?

9 A Yes. You had the SciFi Channel.
10 You had History Channel. You had Speedvision,
11 ultimately renamed Speed. You had OLN. Golf
12 was launched in the mid-'90s. There was a
13 suite of about seven or eight Viacom Services
14 that were launched. There was a suite of
15 Discovery Services that were launched. A
16 number of other channels that were launched.
17 Fox News was launched during that time period.
18 FX was launched during that time period.
19 MSNBC was launched during that time period.
20 ESPN2 was launched in that time period.

21 Q So a pretty good list of channels
22 there that were launched then?

1 A Yes, and that list is not
2 exhausted.

3 Q How about Tennis Channel? Was
4 Tennis Channel launched back in the mid-'90s?

5 A No.

6 Q Did you hear anything about the
7 idea of The Tennis Channel back in the '90s?

8 A No.

9 Q Any idea why not? Why was Tennis
10 Channel not on the radar screen back in the
11 '90s?

12 A I can't really tell. Perhaps it
13 was not a programming idea that anybody
14 thought had value back then or could gain
15 distribution.

16 Q You mentioned Golf and Versus.
17 Well, before I go to Golf and Versus, the list
18 of channels that you gave us as examples of
19 launches, were you involved in the '90s when
20 you were at TCI in buying that programming,
21 those various channels for distribution on
22 TCI?

1 A Yes.

2 Q And did the channels that you were
3 involved in acquiring include Golf and Versus?

4 A Yes. It was called OLN at that
5 time.

6 Q Versus was called OLN at that
7 time?

8 A Yes, Versus was called OLN at that
9 time.

10 Q And Golf Channel was always Golf
11 Channel?

12 A Yes, sir.

13 JUDGE SIPPEL: Is it O-L-N?

14 THE WITNESS: Yes, O-L-N. It
15 stood for Outdoor Life Network.

16 JUDGE SIPPEL: You acquired that?

17 THE WITNESS: No, when I was at
18 TCI I did distribution deals with OLN,
19 subsequently Versus, and with Golf Channel as
20 well as the other networks that I listed in
21 the ordinary course of business.

22 JUDGE SIPPEL: I see, so OLN was

1 an existing -- was in existence when you moved
2 -- okay. What was the year OLN was launched,
3 roughly?

4 THE WITNESS: 1995.

5 JUDGE SIPPEL: Thank you. That's
6 it for me. Thank you.

7 BY MR. CARROLL:

8 Q That same question, following up
9 on His Honor's question, same question for
10 Golf Channel. Do you remember when that was
11 launched?

12 A Yes, I believe at the same time.

13 Q 1995?

14 A Yes.

15 Q And TCI, which is a separate cable
16 company entirely from Comcast, there was no
17 relationship between them back in the '90s,
18 right?

19 A Yes, that's correct.

20 Q And did TCI agree to acquire The
21 Golf Channel and OLN programming back in the
22 mid-'90s?

1 A Yes, we did distribution deals
2 with those networks.

3 Q So you helped launch those on TCI
4 back at the time?

5 A Yes.

6 Q And when you did that back in the
7 '90s, why did you do that? Why did you decide
8 to distribute Golf Channel and OLN?

9 A As I said earlier, in the mid-
10 '90s, there were a number of channels that got
11 launched and gained distribution as it
12 happened in the '80s as well. And as the
13 channel offering expanded over the '90s, we
14 were acquiring content in the ordinary course
15 of business, including those services. And we
16 did deals for all the services on the list
17 that I gave you.

18 Q I gather --

19 JUDGE SIPPEL: I am sorry. I
20 think you glossed over something here. You
21 were on the buy side then, right?

22 THE WITNESS: Yes, Your Honor.

1 JUDGE SIPPEL: So you bought OLN
2 for TCI and you bought Golf?

3 THE WITNESS: Yes.

4 JUDGE SIPPEL: And then would turn
5 around and distribute it?

6 THE WITNESS: Correct.

7 JUDGE SIPPEL: Go ahead.

8 THE WITNESS: To clarify the
9 terminology --

10 JUDGE SIPPEL: Clarify it, please.

11 THE WITNESS: I wouldn't use the
12 word "bought." We didn't buy the program. We
13 licensed the network.

14 JUDGE SIPPEL: Okay.

15 THE WITNESS: So we would enter
16 into a deal called an affiliation agreement
17 and an affiliation agreement gave TCI the
18 right to distribute The Golf Channel and OLN
19 and ESPN2 and any of those channels on its
20 cable systems according to the terms. And
21 those affiliation agreements would set all the
22 requirements of the fees for the network and

1 the requirements of distribution and the
2 package of rights. So to use the word "buy"
3 is not probably quite accurate. It was more
4 of a license. It was a license to distribute.

5 JUDGE SIPPEL: I was actually just
6 picking up on a term that you had used earlier
7 and I'm not trying to get myself out of a box
8 here, but I'm just trying to use some
9 shorthand. But I appreciate that you
10 corrected the record as you did because it's
11 a very important concept you explained, I
12 understand to be very, very important. And I
13 know it to be very important.

14 Now my question is, however, was
15 OLN, this is '95 now, OLN and Golf, were they
16 networks, independent networks at that time,
17 like The Tennis Channel?

18 THE WITNESS: No, they were owned
19 by Comcast. I don't recall the exact
20 ownership of Golf at the time. Comcast had an
21 interest in Golf. OLN was formed as part of
22 a joint venture with Cox, Comcast, and